

ORDINANCE NO. 2005-21

AN ORDINANCE AMENDING DIVISION 3, ARTICLE II, CHAPTER 90 OF THE CODE OF THE CITY OF FAIRFAX, VIRGINIA, PERTAINING TO TAX EXEMPTIONS FOR THE ELDERLY OR DISABLED.

DIVISION 3. EXEMPTIONS FOR ELDERLY OR DISABLED*

***Editor's note:** Ord. No. 2003-19, adopted Sept. 23, 2003, amended div. 3 in its entirety and enacted similar provisions as set out herein. The former div. 3 derived from Code 1978, §§ 8-29--8-37; and Ord. No. 2002-5, adopted Jan. 22, 2002.

Sec. 90-71. Definitions.

For the purpose of this division, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Affidavit means the real estate tax exemption, deferral or freeze affidavit, or written statement, which shall include all information required in this division.

City manager means the city manager, or the city manager's authorized representative.

Dwelling means the full-time residence of the person or persons claiming exemption.

Permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.

Property means real property.

Taxable year means the calendar year, from January 1 until December 31, for which exemption is claimed.

Tax deferral shall mean a total or partial deferral of real estate taxes assessed on real property occupied by a taxpayer qualified under the terms of this division. The amount of such taxes so deferred shall become due and payable at a later date in accordance with the provisions set forth in this division, and shall constitute a lien upon the real estate.

Tax exemption means the full or partial exemption from real estate taxes assessed on real property occupied by a taxpayer qualified under the terms of this division. No lien against the property shall accrue as a result of the amount certified as exempt.

Tax freeze refers to the total exemption of that portion of the real estate tax which represents the increase in such tax since the taxpayer initially qualified for exemption under this division, so that the taxpayer's real estate tax will be frozen at the amount assessed in the fiscal year in which the taxpayer initially qualifies.

(Ord. No. 2003-19, 9-23-2003; Ord. No. 2004-22, 10-26-2004)

Sec. 90-72. Qualifications for exemption generally.

Real estate tax exemption, tax deferral, tax freeze, or a combination of freeze and deferral, is hereby provided for property owners, who are eligible according to the terms of this division and either (i) are not less than 65 years of age, or (ii) are determined to be permanently and totally disabled. Persons qualifying for such exemption, deferral, freeze, or combination of freeze and deferral are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.(Ord. No. 2003-19, 9-23-2003; Ord. No. 2004-22, 10-26-2004)

Sec. 90-73. Administration of division.

The tax exemption, tax deferral, tax freeze, or combination of freeze and deferral shall be administered by the city manager according to the provisions of this division. The city manager is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations in conformance with the provisions of this division, including the requirement of answers under oath, as may be reasonably necessary to determine qualifications for tax exemption, tax deferral, tax freeze, or combination of freeze and deferral as specified by this division, including qualification as permanently and totally disabled. The city manager may require the production of certified federal tax returns and appraisal reports to establish income or financial worth.

(Ord. No. 2003-19, 9-23-2003; Ord. No. 2004-22, 10-26-2004)

Sec. 90-74. Criteria for exemption.

Tax exemption, tax deferral, tax freeze, or a combination of freeze and deferral shall be granted to persons who qualify under the following provisions:

- (1) The title of the property for which exemption is claimed must be vested on January 1 of the taxable year, wholly or partially in the name of the person or persons claiming exemptions.
- (2) The head of the household occupying the dwelling as his sole dwelling and in whose name, title, or an interest in title, is vested must, on December 31 of the year immediately preceding the taxable year, be either (i) 65 years of age or older, or (ii) permanently and totally disabled.
- (3) The gross combined income of the owner during the year immediately preceding the taxable year must be determined by the city manager to be an amount not in excess of \$72,000.
- (4) The net combined financial worth, including equitable interests, as of December 31 of the immediately preceding taxable year, of the owner, and of the spouse of any owner, excluding the value of the dwelling and the land, not exceeding one acre, upon which it is situated, must not exceed \$340,000.

(Ord. No. 2003-19, 9-23-2003; Ord. No. 2004-22, 10-26-2004)

Sec. 90-75 Application.

- (a) Each person or persons claiming any exemption, deferral or freeze under this division shall file an affidavit or written statement with the city manager not later than April 15. The affidavit shall set forth, in a manner prescribed by the city manager, the name of the owner and of the related persons occupying the dwelling for which exemption is claimed, their gross combined income and their total combined net worth. If such person is under 65 years of age, such form shall have attached thereto a certification by the Social Security Administration, the department of veterans affairs or the railroad retirement board, or if such person is not eligible for certification by any of these agencies, a sworn affidavit by two medical doctors who are either licensed to practice medicine in the commonwealth or are military officers on active duty who practice medicine with the United States armed forces, to the effect that the person is permanently and totally disabled, as defined in Code of Virginia, § 58.1-3217. The affidavit shall also include an indication as to whether the person or persons intends to claim either tax exemption, tax deferral, tax freeze, or a combination of tax freeze and deferral. Each affidavit or written statement filed pursuant to this section shall be deemed valid for a period of three years; provided, however, that each year during the three-year period and within the time requirement for filing affidavits, the person or persons claiming tax exemption, tax deferral, tax freeze or a combination of tax freeze and deferral shall file with the city manager a certification that the information

contained on the affidavit has not changed or that, if any change has occurred, that such change does not serve to violate the limitations and conditions provided in this division.

(b) If after audit and investigation, the city manager determines that the owner is qualified for any tax exemption, tax deferral, or tax freeze, he shall so certify to the treasurer of the city who shall deduct the appropriate amount from the claimant's real estate tax liability.

(c) The city manager shall also make any other reasonably necessary inquiry of persons seeking any exemption, deferral, or freeze under this division, requiring answers under oath, to determine qualifications as specified herein, including qualification as permanently and totally disabled as defined in Code of Virginia, § 58.1-3217, and qualification for the exclusion of life insurance benefits paid upon the death of an owner of a dwelling, or as otherwise specified herein. The city manager may also require the production of certified tax returns to establish the income or financial worth of any applicant for tax relief or deferral.

(Ord. No. 2003-19, 9-23-2003; Ord. No. 2004-22, 10-26-2004)

Sec. 90-76. Amount of exemption/deferral/freeze.

When a person claiming any exemption, deferral or freeze under this division conforms to the standards and limitations set forth in this division, the tax exemption, deferral, or freeze shall be as shown for the selected category:

Basic tax relief.

TABLE INSET:

Income	Exemption
\$0--52,000	100%
\$52,001--62,000	50%
\$62,001--72,000	25%

Tax deferral. The person or persons qualifying for and claiming tax deferral shall be allowed to defer payment of 100 percent of all real estate taxes assessed by the city against the real estate until payment becomes due as provided herein.

The accumulated amount of taxes deferred shall be paid without penalty, plus an interest rate equal to the city's average rate of return on investments in the calendar year immediately preceding the assessment of the deferred tax, not to exceed a maximum of eight percent per annum, to the treasurer of the city by the owner at any time prior to or upon the sale of the dwelling, or from the estate of decedent within one year from the death of the last owner thereof who qualifies for tax deferral by the provisions of this division. Such deferred real estate taxes shall constitute a lien upon the real estate as if they had been assessed without regard to the deferral permitted by this division; provided, however, that such liens shall, to the extent that they exceed the aggregate ten percent of the price for which such real estate is sold, be inferior to all other liens of record.

Accumulated deferred taxes, together with the interest thereon, shall not exceed 33 percent of the assessed value of the property. If in any year a person who is otherwise eligible under the conditions and limitations of this article for a deferral has accumulated deferred taxes together with the interest thereon, which would exceed 33 percent of the assessed value of the property, such person shall be entitled to an exemption for that portion of tax which would exceed 33 percent of the assessed value of the property.

Tax freeze. The tax freeze option is available to all qualifying taxpayers. Taxes will be frozen at the amount assessed in the year in which the taxpayer initially becomes qualified under the income and asset parameters set forth in this division.

If, for any year following the initial qualification of a taxpayer for a tax freeze, the total amount of property taxes assessed by the city falls below the freeze level, or such taxpayer becomes disqualified for any other reason, a subsequent application for exemption by such taxpayer may be filed, and shall be treated as an initial application for purposes of determining the tax freeze amount.

Combination tax freeze/tax deferral. Any qualifying person may elect to participate in the combination tax freeze/tax deferral program. Through this program, taxes will be frozen at the amount assessed in the year in which the taxpayer initially becomes qualified under the income and asset parameters set forth in this division, and the taxpayer may also defer the amount of tax over and above the freeze level subject to all deferral regulations as outlined in the previous section.

(Ord. No. 2003-19, 9-23-2003; Ord. No. 2004-22, 10-26-2004)

Sec. 90-77. Changes in circumstances.

Changes in income, financial worth, ownership of property or other factors occurring during the taxable year for which an affidavit is filed and having the effect of exceeding or violating the limitations and conditions provided in this article shall nullify any exemption, deferral, tax freeze, or combination thereof, for the remainder of the current taxable year and the taxable year immediately following.

(Ord. No. 2003-19, 9-23-2003; Ord. No. 2004-22, 10-26-2004)

Sec. 90-78. Records generally.

For recordkeeping purposes, all exemptions, deferrals and freezes granted under the provisions of this division will be handled as expenditures on the official books with a credit being made to the revenue section of the budget thereby not affecting the collection record of the city.

(Ord. No. 2003-19, 9-23-2003; Ord. No. 2004-22, 10-26-2004)

Sec. 90-79. Penalties for violation of division.

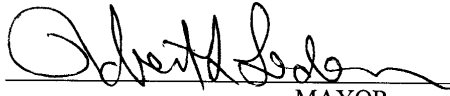
Any person or persons falsely claiming an exemption shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50.00 nor more than \$500.00 for each offense.

(Ord. No. 2003-19, 9-23-2003; Ord. No. 2004-22, 10-26-2004)

Secs. 90-80--90-95. Reserved.

BE IT FURTHER ORDAINED that this ordinance shall become effective upon adoption as provided by law.

INTRODUCED:	November 1, 2005
PUBLIC HEARING:	November 29, 2005
ENACTED:	November 29, 2005


MAYOR

12/6/05
DATE

ATTEST:


City Clerk

Vote:

The vote on the motion to approve was recorded as follows:

Councilwoman Cross	Aye
Councilman Greenfield	Aye
Councilwoman Lyon	Aye
Councilman Rasmussen	Aye
Councilman Silverthorne	Aye
Councilmember Winter	Aye